



CITY OF MORGAN HILL

MEMORANDUM

To: PLANNING COMMISSION

Date: May 22, 2007

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: DEVELOPMENT AGREEMENT AMENDMENT DAA: 05-08: Church-Alcini

REQUEST

The applicant is requesting an amendment to an approved development agreement for a 14-lot single family attached project approved on a 1.6 acre parcel located on the west side of Church St. approximately 75ft. north of Bisceglia Ave. The amendments requested are to allow for a 6-month extension of the commencement deadline and 6 month extension of the date to obtain building permit.

RECOMMENDATION

Application: Adopt resolution amending development agreement.
Adopt resolution approving separate development schedule.

Processing Deadline: October 30, 2007

BACKGROUND

In July 2006, the City Council approved precise development plan and development agreement for the 14 lot single family attached portion of the 44 unit master planned project. In November 2006, the applicant submitted a 14-lot final map for processing with the Public Works Department, received Site and Architectural approval and submitted plans to the Building Division for building permits. City Council approval of the final map is scheduled for May 23rd.

CASE ANALYSIS

According to the currently approved development agreement schedule, the applicant should have pulled building permits by February 28 and should have commenced construction by April 30. The completion of the final map process has taken longer than expected and the applicant would like a 6-month extension of the current allocation expiration of 6/30/07.

The purpose of the processing schedule is to allow the City to track the progress of each project through the RDCS Quarterly report to prevent the allocations from expiring. As part of the Commission's review of the quarterly report, this project was identified as behind schedule. The applicant would like to stay in compliance with the development schedule but due the unforeseen final map requirements, the project owner would like some additional time to deal with any additional unforeseen delays (see attached letter from applicant.)

Due to the substantial progress the applicant has made in seeking planning entitlements, final map approval and building permits staff recommends approval of the six month extension. The six month extension will offset a 3 month city delay of the final map processing and the extra time (3 months) required to comply with the Planning Division's request to expand the zoning and environmental review to cover the adjacent mixed use project.

Staff is also recommending that the development schedule for the project be amended by moving the performance dates into a separate Planning Commission resolution per Commission Policy PCP-06-01. A second resolution has been provide which allows the Commission to approve the project development dates separate from the development agreement.

RECOMMENDATION

Staff recommends approval of a six month extension of the "commence construction" date as shown in Exhibit A of the development agreement amendment resolution. Also recommended is adoption of a resolution which will separate the project development schedule from the development agreement.

Attachments:

1. Applicant's letter of request
2. Resolution recommending approval of DAA
3. Resolution approving project development schedule

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL TO AMEND THE DEVELOPMENT
AGREEMENT FOR APPLICATION, DAA-05-08:
CHURCH-ALCINI, TO ALLOW FOR A 6-MONTH
EXTENSION OF COMMENCEMENT OF
CONSTRUCTION DATE FOR 14 BUILDING
ALLOCATIONS GRANTED FOR FY 2006-07 FOR MC
04-15: CHURCH - ALCINI ALSO RECOMMENDED IS
THE TRANSFER OF THE DEVELOPMENT
AGREEMENT PERFORMANCE DATES OUT OF
EXHIBIT "B" OF THE DEVELOPMENT AGREEMENT
AND INTO A SEPARATE RESOLUTION (APN 817-01-
061 & 064)**

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded 14 building allocations for Fiscal Year 2006-07.

WHEREAS, On July 19, 2005 the City Council adopted Ordinance Number 1787 which set a development schedule for the 14 building allocations award to MC 04-15: Church - Alcini; and

WHEREAS, it is recommended that the City Council amend the approved development agreement schedule as shown in Exhibit "A" to comply with Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, it is recognized that the project encountered delays in the final map processing and the processing of the zoning application due to the City's request to expand the application to include an adjacent development; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT AMENDMENT. The Planning Commission hereby recommends to the City Council adoption of the Development Agreement Amendment for DAA-05-08: Church-Alcini.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached "Exhibit B", to allow for a 6-month extension of the commence construction date for the 14 building allocations granted for FY 2006-2007 as contained in the development agreement approved for MC 04-15: Church - Alcini.

**PASSED AND ADOPTED THIS 22nd DAY OF MAY, AT A REGULAR MEETING OF
THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"
DEVELOPMENT SCHEDULE MC-04-15: Church-Alcini:
FY 2006-07, 14 allocations

I. COMMENCEMENT OF CONSTRUCTION

FY 2006-07

12-30-07 04-30-07

Failure to obtain building permits and commence construction by the date listed above, shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 7 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF MORGAN HILL APPROVING AN AMENDED
DEVELOPMENT SCHEDULE FOR APPLICATION MC 04-15:
CHURCH - ALCINI (APN 817-01-061 & 064)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 14 building allotments for application MC 04-15: Church - Alcini; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, On July 26, 2006 the City Council adopted Ordinance Number 1787 which set a development schedule for the 14 building allocations award to MC 04-15: Church - Alcini; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and

WHEREAS, in accordance with Policy PCP-06-01, the applicant is requesting to amend the development schedule to allow for a 6-month extension of the obtain building permit date for the 14, FY 2006-07 allocations; and

WHEREAS, the amended development schedule for application MC 04-15: Church - Alcini was considered by the Planning Commission at their regular meeting of May 22, 2007 at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Development Schedule for MC 04-15: Church - Alcini attached to this Resolution as Exhibit A.

PASSED AND ADOPTED THIS 22nd DAY OF MAY 2007, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

EXHIBIT "A"
DEVELOPMENT SCHEDULE MC-04-15: Church-Alcini:
FY 2006-07, 14 allocations

I.	SUBDIVISION AND ZONING APPLICATIONS	
	Applications Filed:	08-18-05
II.	SITE REVIEW APPLICATION	
	Application Filed:	07-30-06
III.	FINAL MAP SUBMITTAL	
	Map, Improvements Agreement and Bonds: FY 2006-07	10-30-06
IV.	BUILDING PERMIT SUBMITTAL	
	Submit plans to Building Division for plan check: FY 2006-07	11-15-06
V.	BUILDING PERMITS	
	Obtain Building Permits: FY 2006-07	08-30-07 02-28-07

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 7 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

PAUL SCHUYLER
20711 LEONARD ROAD
SARATOGA, CALIFORNIA 95070
(408) 867-7922

April 30, 2007

Community Development Dept.
Planning Division
17555 Peak Ave
Morgan Hill, Ca. 95037

Re: Development Agreement Amendment for Application MP-04-15

Attn: James B. Rowe

We would like to request a development agreement amendment for our application MP-04-15: Church-Alcini . We would like to amend the date in the specific section of our Development Agreement Section C that requires us to pull permits and commence construction by June 30, 2007, to December 30, 2007. We intend to pull permits within 90 days , but feel more comfortable with the December 30 deadline date. We request this amendment as a result of a PUD imposed on this site , as well as all the additional engineering requirements that were necessary to obtain the final map.

Sincerely,

Paul Schuyler



Raymond Alcini

